

that fuels the media of our enemies. I would not be surprised to see some of these comments reported in Al-Jazeera.

What happened at Abu Ghraib was tragic. There were criminal acts by American troops. We punished them, but nobody talks about the fact that we punished them and sent them to prison. They went to the brig, as they should. Now we have heard discussions attributing to the CIA all manner of activities that are wrong, improper, not usable, and are not used.

I think it is important we clear the record. I wish some of the people who know better would say I didn't mean to say that the CIA does these things, because the people on the Intelligence Committee know precisely what is done and what is not done.

Mr. WARNER. Will the Senator yield for a moment?

Mr. BOND. I am happy to.

Mr. WARNER. As a Senator from Virginia, I am proud to have the CIA principal office in my State. I have been working with them for 30-some-odd years. I have gotten to know many of them through the years. They are not people who would set out to violate the laws of our Nation. They are just like you and me. They have families and the same values we share in the Senate and in our neighborhoods. They do go abroad and assume an awful lot of personal risk on a number of missions. But in terms of following the laws of our Nation, and the international laws, I think they stand head and shoulders, and they are to be commended.

Mr. BOND. Madam President, I thank my distinguished colleague from Virginia. He is one of the real experts in this body on military and intelligence affairs. I can tell you that having talked with General Hayden and the other top officers of the Agency, getting to know Attorney General Mike Mukasey and those other responsible, high-principled officials who are overseeing it, it is not a danger that we are going to see torture or inhumane or degrading treatment used.

Now, again, during the House-Senate conference for the fiscal year 2008 Intelligence authorization bill, an amendment—section 327—was adopted that would prevent any element of the intelligence community from using an interrogation technique not authorized by the Army Field Manual.

Earlier today, it was stated on the floor that the full membership of the conference committee, the full membership of the House Intelligence Committee, and the Senate Intelligence Committee came to the conclusion that interrogations should be conducted within the terms of the U.S. Army Field Manual.

Let me be particularly clear that this amendment only passed by a one-vote margin. The conference was sharply divided on the issue, as reflected by the fact that no House Republicans signed the conference report and only two Senate Republicans signed the report.

The problem with this provision is not that it says the interrogators cannot use certain techniques. Most of the techniques prohibited by the Army Field Manual are so repugnant that I think we can all agree they should not be and would never be used.

In fact, this vote is not about torture or about waterboarding. Despite what you have heard on the floor, it is not about waterboarding. Torture is repugnant. We have stated that time and time again—in the Detainee Treatment Act and in other laws we passed. Whether one believes it is torture is irrelevant because waterboarding is not in the CIA's interrogation program.

The problem is the provision in the conference report establishes a very limited set of techniques, and these are the only techniques any interrogator may use. So the vote is about whether the FBI and CIA should be restricted to a set of 19 unclassified techniques, designed for the Army, which have not been examined fully by some agencies. I say "19 unclassified techniques" because those techniques not only have been published widely, but they are included in al-Qaida training manuals. So the al-Qaida high-value leaders—the people with the information—know precisely what it is all about.

If this legislation passes, and were it to be signed into law—which all of us know it will not—we all need to understand fully that the FBI and CIA interrogators may only use the 19 techniques authorized in the field manual. According to the field manual, they would have to get a clearance from an OC-6, a military officer. That was designed for the military, not for the CIA, not for the FBI. When my distinguished colleague from Virginia passed the Detainee Treatment Act, he and the Senator from Arizona, Senator McCain, expressly left the CIA out of the limitations to the Army Field Manual.

As CIA Director Michael Hayden has said:

I don't know anyone who has looked at the Army Field Manual who could make the claim that what's contained in there exhausts the universe of lawful interrogation techniques consistent with the Geneva Conventions.

He described a whole area of techniques. There are a whole group of techniques that we use on the volunteers who join our Marines, Special Forces, our SEALs, our pilots, which I described earlier today. Many tactics are far more difficult to withstand than the techniques that are used by the CIA in its interrogation.

If we are going to demand that all Government agencies must use only these techniques, we must make sure the Army Field Manual doesn't leave out other moral and legal techniques needed by these agencies. I don't believe the Intelligence Committee has adequately pursued this issue.

How many of those techniques do we want to publish so our al-Qaida targets will know how to resist them? Having

a single interrogation standard does not account for the significant differences in why and how intelligence is collected by the military, CIA and FBI, and from whom it is collected.

Much has been made of the FBI saying they do not use coercive techniques. That is accurate. The FBI operates in a different world—where confessions are usually admitted into evidence during a prosecution. This means they have to satisfy standards of voluntariness that do not bind either the military or CIA. When they question somebody, they are trying to stop a terrorist attack from happening in the future. They are in the field. The FBI is investigating a crime that has been committed in the hopes of punishing those people. There are significant concerns about whether the FBI would even be able to conduct ordinary interrogations using the techniques in the Army Field Manual.

A time-honored technique, one that has led to countless successful prosecutions, is deception—for example, telling a suspect that his associate has confessed even though the associate has refused to cooperate. But as I read the Army Field Manual, I don't see that that is authorized. So under this amendment, the FBI could be barred from using this simple, yet invaluable, technique.

FBI lawyers have told us they need more time to conduct a full legal review of the Army Field Manual to determine, along with their counterintelligence and counterterrorism divisions, what impact using only the field manual would have on interrogations. We should give them time to do this review before we pass a bill that could severely undermine their interrogation practices.

Aside from these concerns, the Army Field Manual on Interrogation was designed as a training document. It is changeable, which means the Congress—and the CIA and FBI—has no idea what techniques may be added or subtracted tomorrow, next month or next year.

Are we really ready in this body to define something as a standard, a changing field manual? When do we ever do that, saying everybody has to follow the Army Field Manual, and the Army Field Manual can be changed when and if it is ready. There are practical consequences. The unclassified military training level is not applicable to questioning high-value detainees.

This is, I suggest, a very bad measure. I believe the bill without this amendment would have been a very good one. I cannot urge my colleagues to vote for it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the conference report to accompany H.R. 2082.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.